



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR      DOUGLAS P. SCOTT, DIRECTOR

(217) 782-9817  
TDD: (217) 782-9143

ORIGINAL

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CLERK'S OFFICE  
OCT 02 2008  
STATE OF ILLINOIS  
Pollution Control Board

September 30, 2008

John Therriault, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

AC09-16

Re: Illinois Environmental Protection Agency v. Mid-America Machinery Company  
IEPA File No. 292-08-AC: 1174100001—Macoupin County

Dear Mr. Therriault:

Enclosed for filing with the Illinois Pollution Control Board, please find the original and nine true and correct copies of the Administrative Citation Package, consisting of the Administrative Citation, the inspector's Affidavit, and the inspector's Illinois Environmental Protection Agency Open Dump Inspection Checklist, issued to the above-referenced respondent(s).

On this date, a copy of the Administrative Citation Package was sent to the Respondent(s) via Certified Mail. As soon as I receive the return receipt, I will promptly file a copy with you, so that the Illinois Pollution Control Board may calculate the thirty-five (35) day appeal period for purposes of entering a default judgment in the event the Respondent(s) fails or elects not to file a petition for review contesting the Administrative Citation.

If you have any questions or concerns, please do not hesitate to contact me at the number above. Thank you for your cooperation.

Sincerely,

Michelle M. Ryan  
Assistant Counsel

Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

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OCT 02 2008

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. )  
 )  
MID-AMERICA MACHINERY CO., )  
 )  
Respondent. )

ORIGINAL AC 09-16

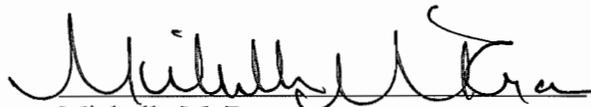
(IEPA No. 292-08-AC)

**NOTICE OF FILING**

To: Mid-America Machinery Company  
ATTN: Larry Jabusch  
2500 Wrightsman Road  
Virden, IL 62690

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST.

Respectfully submitted,



Michelle M. Ryan  
Assistant Counsel

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

Dated: September 30, 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

OCT 02 2008

STATE OF ILLINOIS  
Pollution Control Board

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Complainant, )  
v. )  
MID-AMERICA MACHINERY COMPANY, )  
Respondent. )

ORIGINAL

AC 09-16  
(IEPA No. 292-08-AC)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2006).

FACTS

1. That Mid-America Machinery Company ("Respondent") is the present owner and operator of a facility located at 33256 Old Route 4, Virden, Macoupin County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Virden/Mid-America Machinery Co.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1174100001.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on August 14, 2008, Jan Mier of the Illinois Environmental Protection Agency's ("Illinois EPA") Springfield Regional Office inspected the above-described facility. A copy of her

inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 9/30/08, Illinois EPA sent this Administrative Citation via Certified Mail No. 7007 0220 0000 0152 4813.

#### VIOLATIONS

Based upon direct observations made by Jan Mier during the course of her August 14, 2008 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2006).
  
- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in Deposition of General Construction or Demolition Debris: or Clean Construction or Demolition Debris a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2006).

#### CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2006), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Three Thousand Dollars (\$3,000.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be

due and payable no later than October 31, 2008, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent elects to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2006), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

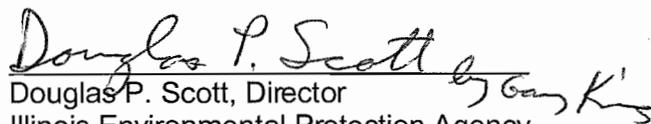
Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2006), if Respondent fails to petition or elects not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondent's check shall be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Along with payment, Respondent shall complete and return the enclosed Remittance Form to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondent from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondent in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS  
ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2006). If Respondent elects to contest this Administrative Citation, then Respondent shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondent.

  
Douglas P. Scott, Director  
Illinois Environmental Protection Agency

Date: 9/30/08

Prepared by: Susan E. Konzelmann, Legal Assistant  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

REMITTANCE FORM

ORIGINAL

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Complainant,

v.

MID-AMERICA MACHINERY COMPANY,

Respondent.

AC

09-16

(IEPA No. 292-08-AC)

**RECEIVED**  
CLERK'S OFFICE

OCT 02 2008

**STATE OF ILLINOIS**  
Pollution Control Board

FACILITY: Virden/Mid- America Machinery Co.

SITE CODE NO.: 1174100001

COUNTY: Macoupin

CIVIL PENALTY: \$3,000.00

DATE OF INSPECTION: August 14, 2008

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.

# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## Open Dump Inspection Checklist

County: MACOUPIN      LPC#: 1174100001      Region: 5 - Springfield  
 Location/Site Name: VIRDEN/MID AMERICA MACHINERY CO.  
 Date: 8/14/08      Time: From 12:50 pm To 1:05 pm      Previous Inspection Date: 6/18/08  
 Inspector(s): JAN MIER      Weather: 85°, SUNNY, WINDY  
 No. of Photos Taken: # 6      Est. Amt. of Waste: 50 yds<sup>3</sup>      Samples Taken: Yes #        No x  
 Interviewed: LARRY JABUSCH, OWNER      Complaint #: C-08-055

Responsible Party Mailing Address(es) and Phone Number(s):	<b>MID AMERICA MACHINERY CO.</b> 2500 WRIGHTSMAN ROAD VIRDEN, IL 62690 ATTN: LARRY JABUSCH 217/965-3358 cell 836-3357	<div style="border: 1px solid black; padding: 10px; font-weight: bold; font-size: 1.2em;">           RECEIVED            CLERK'S OFFICE             OCT 02 2008             STATE OF ILLINOIS            Pollution Control Board         </div>
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	SECTION	DESCRIPTION	VIOL
<b>ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS</b>			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<input type="checkbox"/>
3.	12(a)	CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS	<input type="checkbox"/>
4.	12(d)	CREATE A WATER POLLUTION HAZARD	<input type="checkbox"/>
5.	21(a)	CAUSE OR ALLOW OPEN DUMPING	<input checked="" type="checkbox"/>
6.	21(d)	CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE- DISPOSAL OPERATION:	
	(1)	Without a Permit	<input type="checkbox"/>
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	<input type="checkbox"/>
7.	21(e)	DISPOSE, TREAT, STORE, OR ABANDON ANY WASTE, OR TRANSPORT ANY WASTE INTO THE STATE AT/TO SITES NOT MEETING REQUIREMENTS OF ACT AND REGULATIONS	<input type="checkbox"/>
8.	21(p)	CAUSE OR ALLOW THE OPEN DUMPING OF ANY WASTE IN A MANNER WHICH RESULTS IN ANY OF THE FOLLOWING OCCURRENCES AT THE DUMP SITE:	
	(1)	Litter	<input checked="" type="checkbox"/>
	(2)	Scavenging	<input type="checkbox"/>
	(3)	Open Burning	<input type="checkbox"/>
	(4)	Deposition of Waste in Standing or Flowing Waters	<input type="checkbox"/>
	(5)	Proliferation of Disease Vectors	<input type="checkbox"/>
	(6)	Standing or Flowing Liquid Discharge from the Dump Site	<input type="checkbox"/>

LPC # 1174100001

Inspection Date: 8/14/08

	(7)	Deposition of: (i) General Construction or Demolition Debris as defined in Section 3.160(a); or (ii) Clean Construction or Demolition Debris as defined in Section 3.160(b)	<input checked="" type="checkbox"/>
9.	55(a)	<b>NO PERSON SHALL:</b>	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	<input type="checkbox"/>
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	<input type="checkbox"/>
<b>35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G</b>			
10.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input type="checkbox"/>
11.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
12.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
13.	809.302(a)	ACCEPTANCE OF SPECIAL WASTE FROM A WASTE TRANSPORTER WITHOUT A WASTE HAULING PERMIT, UNIFORM WASTE PROGRAM REGISTRATION AND PERMIT AND/OR MANIFEST	<input type="checkbox"/>
<b>OTHER REQUIREMENTS</b>			
14.		APPARENT VIOLATION OF: ( <input type="checkbox"/> ) PCB; ( <input type="checkbox"/> ) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
15.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>

Informational Notes

1. [Illinois] Environmental Protection Act: 415 ILCS 5/4.
2. Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
3. Statutory and regulatory references herein are provided for convenience only and should not be construed as legal conclusions of the Agency or as limiting the Agency's statutory or regulatory powers. Requirements of some statutes and regulations cited are in summary format. Full text of requirements can be found in references listed in 1. and 2. above.
4. The provisions of subsection (p) of Section 21 of the [Illinois] Environmental Protection Act shall be enforceable either by administrative citation under Section 31.1 of the Act or by complaint under Section 31 of the Act.
5. This inspection was conducted in accordance with Sections 4(c) and 4(d) of the [Illinois] Environmental Protection Act: 415 ILCS 5/4(c) and (d).
6. Items marked with an "NE" were not evaluated at the time of this inspection.

**STATE OF ILLINOIS  
ENVIRONMENTAL PROTECTION AGENCY  
INSPECTION NARRATIVE**

**LPC#1174100001 – Macoupin County  
Viriden/Mid America Machinery Co.  
FOS File**

**DATE: 6/18/08  
INSPECTOR: Jan Mier  
C-08-055-C**

On August 14, 2008, I conducted a follow-up inspection at the above-referenced site located at 33256 Old Route 4, just south of Viriden, IL. The site is the location of Mid America Machinery Co.. The business and property are owned by Mid America Machinery Co. and operated by Larry Jabusch. Because the land was bought in two parcels, two property deeds are attached, with the owner listed as Mid America Machinery Co. Recently, Mr. Jabusch closed his business.

Mr. Jabusch and the contractor hired to clean up the property were sent Administrative Citation Warning Notices dated November 14, 2007 for open dumping and open burning observed during an 10/30/07 inspection. The used tire violations were resolved with the removal of the used tires by Wade Wiseman, an Illinois EPA registered used tire hauler. Receipts from Flowers Sanitation and Mervis Industries were faxed to this office on January 10, 2008 for disposal and recycling some of the wastes that were on site. What remains is a pile of dirt, rock, concrete, and steel cable that is approximately 120' by 15' by 6'. A letter dated May 6, 2008, from the Illinois EPA gave Mr. Jabusch until June 15, 2008 to remove and properly dispose of the concrete or to reuse it so that it is not considered a waste. Mr. Jabusch was given until June 22, 2008 to submit receipts or documents. There was no written response from Mr. Jabusch. I did reach him by telephone and I asked if he had begun removal of the dirt and construction debris. He stated he had started.

I arrived at 12:50 p.m. Welded Construction is still operating on site. I entered the office and met Jeff Tuggle, Welded Construction site manager. He said that Mr. Jabusch had been in Florida, and that he would be coming in later in the week before he left to go out of town again. I asked if he had worked on, or seen anyone working on the removal of the dirt and construction debris. He said he had not.

I walked back to the waste pile and took photographs of the waste pile (see photograph #001, #002, #003 and #004. Photo #002 also shows a partially crushed metal culvert in with a pile of broken concrete. Photo #005 shows the steel cable running through the pile. Photo #006 shows wire that is interwoven in the pile. The site was unchanged since my last inspection. I departed at 1:05 p.m.

Continuing violations observed at the time of the inspection are noted on the attached checklist.

cc: DLPC/FOS – Springfield Region



**DIGITAL PHOTOGRAPHS**



**Date:** 8/14/08  
**Time:** 12:55 p.m.  
**Direction:** NW  
**Photo by:** Jan Mier  
**Exposure #:** 001  
**Comments:**

Middle of the east side of pile



**Date:** 8/14/08  
**Time:** 12:56 p.m.  
**Direction:** SE  
**Photo by:** Jan Mier  
**Exposure #:** 002  
**Comments:**

Northwest edge of pile

**Photograph File Names:** 1174100001 ~08142008-[Exp. #].jpg



## DIGITAL PHOTOGRAPHS



**Date:** 8/14/08  
**Time:** 12:57 p.m.  
**Direction:** NE  
**Photo by:** Jan Mier  
**Exposure #:** 003  
**Comments:**

Southwest portion of pile



**Date:** 8/14/08  
**Time:** 12:57 p.m.  
**Direction:** NW  
**Photo by:** Jan Mier  
**Exposure #:** 004  
**Comments:**

Southeast end of pile

Photograph File Names: 1174100001 ~08142008-[Exp. #].jpg



## DIGITAL PHOTOGRAPHS



**Date:** 8/14/08  
**Time:** 12:58 p.m.  
**Direction:** NW  
**Photo by:** Jan Mier  
**Exposure #:** 005  
**Comments:**

Broken concrete with a steel cable interwoven in it



**Date:** 8/14/08  
**Time:** 12:58 p.m.  
**Direction:** W  
**Photo by:** Jan Mier  
**Exposure #:** 006  
**Comments:**

Broken concrete with wire interwoven in it

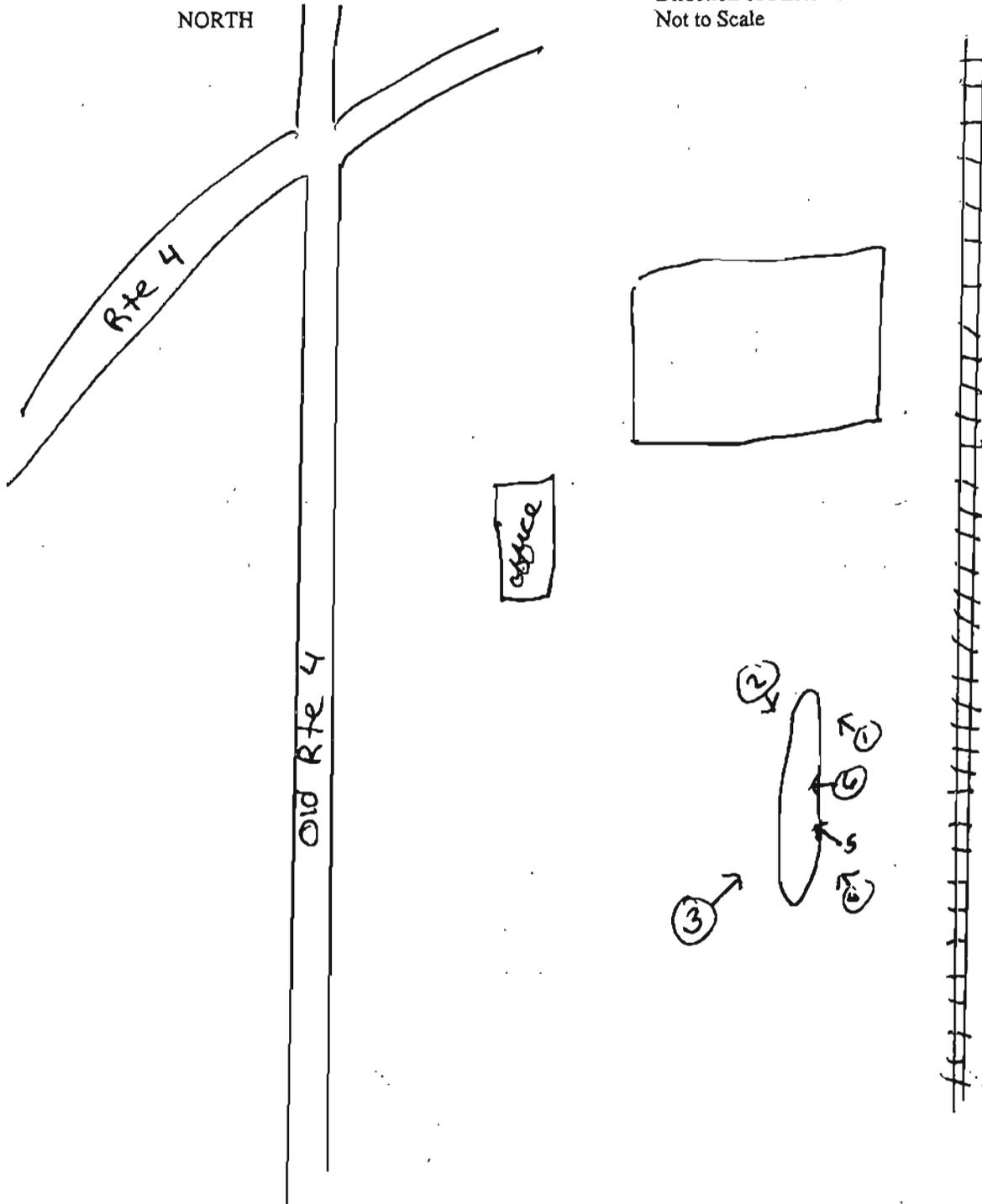
**Photograph File Names:** 1174100001 ~08142008-[Exp. #].jpg

STATE OF ILLINOIS  
ENVIRONMENTAL PROTECTION AGENCY

SITE SKETCH

Date of Inspection:	8/14/08	Inspector:	Jan Mier
Site Code:	LPC#1174100001	County:	Macoupin
Site:	Viriden/Mid America Machinery Co.	Time:	12:50 p.m. - 1:05 p.m

Measurements Approximate  
Direction of Photo →  
Not to Scale



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

IN THE MATTER OF: )

Illinois Environmental )  
Protection Agency )

vs. )

Mid America Machinery Co., )  
Respondent )

IEPA DOCKET NO. )

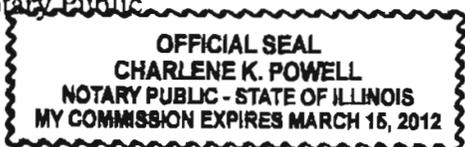
Affiant, *Jan Mier*, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Division of Land Pollution Control/Field Operations Section of the Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On August 14, 2008, between 12:50 p.m. and 1:05 p.m., Affiant conducted an inspection of an open dump, located in Macoupin County, Illinois and known as *Virden/Mid America Machinery Co.* by the Illinois Environmental Protection Agency. Said site has been assigned site code number LPC # 1174100001 by the Agency.
3. Affiant inspected said site by an on-site inspection, which included walking and photographing the site.
4. As a result of the activities referred to in Paragraph 3 above, Affiant completed the Inspection Report form attached hereto and made a part hereof, which, to the best of Affiant's knowledge and belief, is an accurate representation of Affiant's observations and factual conclusions with respect to said open dump.

*Jan Mier*  
\_\_\_\_\_  
Jan Mier

Subscribed and Sworn to Before Me  
this 16 day of Sept, 2008

*Charlene K. Powell*  
\_\_\_\_\_  
Notary Public



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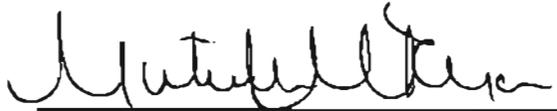
**PROOF OF SERVICE**

I hereby certify that I did on the 30th day of September 2008, send by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST

To: Mid-America Machinery Company  
ATTN: Larry Jabusch  
2500 Wrightsman Road  
Virden, IL 62690

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid

To: John Therriault, Clerk  
Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601



Michelle M. Ryan  
Assistant Counsel

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
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